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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/809,630	06/27/97	KALMANN	M 16380-61

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EXAMINER	
ISABELLA, D	
ART UNIT	PAPER NUMBER
3308	7

DATE MAILED: 10/02/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.
08/809,630

Applicant(s)
KALMANN ET AL

Examiner
ISABELLA, DAVID

Group Art Unit
3308



☒ Responsive to communication(s) filed on Mar 26, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-13 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite. It is not clear what characteristic of the synthetic material enables this material to mimic the tunica intima. Recitation of "and/or" is indefinite. Recitation of "one or more" should be changed to --at least one--. There is no support for "the outer surface".

Recitation of "in which fold(s)" is indefinite, in that, it is unclear as to what is being claimed.

Claim 2, recitation of "and/or" is indefinite.

Claim 3, recitation of "gauze" by itself is indefinite. It is not clear what elements comprise the gauze.

Claim 4, recitation of "according to any" is meaningless. There is no nexus between the introducing means and the inner layer.

Claim 5, there is no nexus between the cover and the elements of the assembly.

Claim 6, recitation of "catheter-like" is indefinite for failing to limit the same. Again there is no nexus between the various elements as claimed.

Claims 7-10, again there is no nexus between the various elements as claimed. Applicant is attempting to label one element with three different names (ie three means attributed to one element). Applicant should simply define the cone element as such and explain the function of the same. Claim 10, there is no support for "the front".

Claim 11, recitation of "according to any of the" is meaningless.

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Claim 12, see rejection to claims 7-10.

Claim 13, recitations of "via" and "and/or" are improper. Delete "upto". Recitations of "catheter-like" and "cone-like" are indefinite. Delete "as it does so,".

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lentz.

Lentz discloses the blood vessel as broadly claimed.

Claims 4 and 6, the blood vessel is introduced into the vessel lumen with a catheter.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5,7,8,9,10,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentz as applied to claim 4 above, and further in view of Garza, et al.

Garza, et al discloses a stent delivery system including a conical distal end, a sheath and a catheter. As broadly worded the system as claimed is met by the combination of Lentz and Garza,

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et al. Since Lentz fails to disclose the specifics of the catheter delivery system, one skilled in the art could use the system of Garza, et al to deploy the graft of Lentz.

The conical cone of Garza, et al may be used as each means as claimed if the vessel to be corrected is a small diameter vessel.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by Lazarus.

Lazarus discloses each element as claimed and each method step as claimed.

Any inquiry concerning this communication should be directed to DAVID J ISABELLA at telephone number (703) 308-3060.

DAVID J ISABELLA

PRIMARY EXAMINER

DJI

9-25-97